

#### **§ 4.1201**

(1) A request for temporary relief is filed pursuant to § 4.1203;

(2) A request is made by OSM for the scheduling of a hearing pursuant to 30 CFR 865.14(a);

(3) A request is made by the applicant for the scheduling of a hearing pursuant to 30 CFR 865.14(a);

(4) A request is made by the applicant for the scheduling of a hearing pursuant to 30 CFR 865.14(b);

(5) A request is made by OSM that OHA close the case because OSM, the applicant, and the alleged discriminating person have entered into an agreement in resolution of the discriminatory acts and there has been compliance with such agreement.

[43 FR 34386, Aug. 3, 1978, as amended at 67 FR 4368, Jan. 30, 2002; 67 FR 61510, Oct. 1, 2002]

#### **§ 4.1201 Request for scheduling of a hearing.**

(a) If OSM determines that a violation of section 703(a) of the act has probably occurred and was not resolved at the informal conference, it shall file with the Hearings Division, OHA, a request on behalf of the applicant that a hearing be scheduled. The request shall be filed within 10 days of the completion of the informal conference, or where no conference is held, within 10 days following the scheduled conference. Where OSM makes such a request, it shall represent the applicant in the administrative proceedings, unless the applicant desires to be represented by private counsel.

(b) If OSM declines to request that a hearing be scheduled and to represent the applicant, it shall within 10 days of the completion of the informal conference, or where no conference is held, within 10 days following the scheduled conference, notify the applicant of his right to request the scheduling of a hearing on his own behalf. An applicant shall file a request for the scheduling of a hearing in the Hearings Division, OHA, within 30 days of service of such notice from OSM.

(c) If no request for the scheduling of a hearing has been made pursuant to paragraph (a) or (b) of this section and 60 days have elapsed from the filing of the application for review with OSM, the applicant may file on his own be-

#### **43 CFR Subtitle A (10–1–14 Edition)**

half a request for the scheduling of a hearing with the main office of OHA. Where such a request is made, the applicant shall proceed on his own behalf, but OSM may intervene pursuant to § 4.1110.

#### **§ 4.1202 Response to request for the scheduling of a hearing.**

(a) Any person served with a copy of the request for the scheduling of a hearing shall file a response with the Hearings Division, OHA, Arlington, Va., within 20 days of service of such request.

(b) If the alleged discriminating person has not filed an answer to the application, such person shall include with the response to the request for the scheduling of a hearing, a statement specifically admitting or denying the alleged facts set forth in the application.

#### **§ 4.1203 Application for temporary relief from alleged discriminatory acts.**

(a) On or after 10 days from the filing of an application for review under this part, any party may file an application for temporary relief from alleged discriminatory acts.

(b) The application shall be filed in the Hearings Division, OHA, Arlington, Va.

(c) The application shall include—

(1) A detailed written statement setting forth the reasons why relief should be granted;

(2) A showing that the complaint of discrimination was not frivolously brought;

(3) A description of any exigent circumstances justifying temporary relief; and

(4) A statement of the specific relief requested.

(d) All parties to the proceeding to which the application relates shall have 5 days from receipt of the application to file a written response.

(e) The administrative law judge may convene a hearing on any issue raised by the application if he deems it appropriate.

(f) The administrative law judge shall expeditiously issue an order or decision granting or denying such relief.